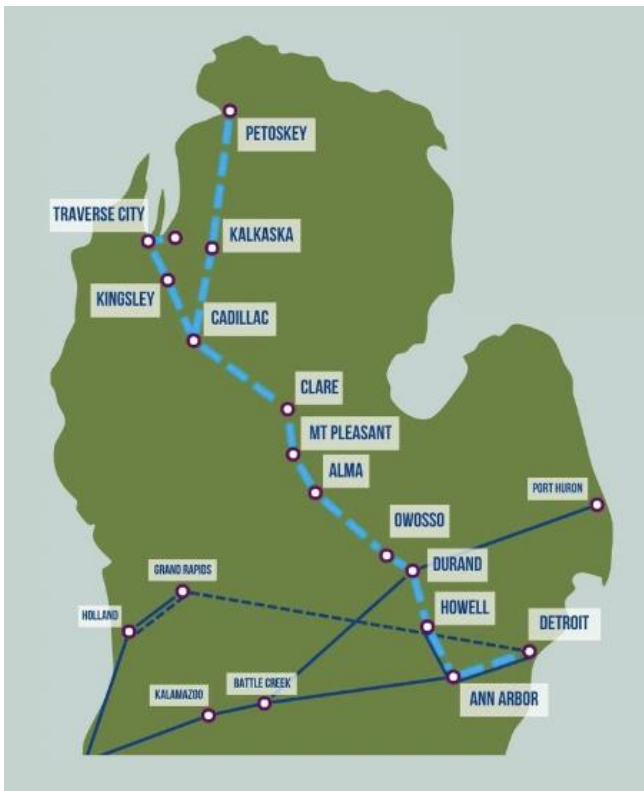


REQUEST FOR PROPOSAL

Northern Michigan Passenger Rail Phase II Planning Study

Application Deadline:
03/25/2024 @ 4:00 PM EST



ISSUING OFFICE:
CADILLAC/WEXFORD TRANSIT AUTHORITY
951 Casa Road
Cadillac, MI, 49601



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INTRODUCTION

SECTION 1 - INTRODUCTION

1.1 OVERVIEW

The Cadillac/Wexford Transit Authority (CWTA) seeks Proposals from qualified firms for a Northern Michigan Passenger Rail Phase II Study. CWTA is the fiduciary for this project funded by a U.S. Department of Transportation (USDOT) Rebuilding American Infrastructure with Sustainability and Equity grant (RAISE) and funds from Michigan's Department of Labor and Economic Opportunity. CWTA is partnering with the Groundwork Center for Resilient Communities (Groundwork).

The purpose of the study is to evaluate and update the operational and financial feasibility of the proposed Northern Michigan passenger rail service. The overall goal of the study is to move the project from conceptual feasibility into its more detailed phase of analyzing the elements needed for the implementation of passenger rail service between the Detroit metro region and lower northern Michigan. The study will update existing cost, ridership, and revenue estimates and begin completing the Service Development Plan framework.

1.2 PROCURING AGENCY AND PARTNER CONTACT

Procuring Agency: Carrie Thompson
Executive Director
Cadillac/Wexford Transit Authority
951 Casa Road, Cadillac, MI 49601
carrie@wexexpress.us

Partner Contact: James Bruckbauer
Transportation & Community Design Program Director
Groundwork Center for Resilient Communities
414 E. Eighth Street, Suite 204, Traverse City, MI 49686
Jim.Bruckbauer@groundworkcenter.org

1.3 SOLICITATION SCHEDULE

The following is the solicitation schedule for this procurement. All times presented in this RFP are in the Eastern Time Zone unless otherwise stated.

Event	Date and Time
Request for Proposal Issued	02/12/2024
Questions due	03/01/2024
CWTA and Groundwork Respond to Questions	03/08/2024
Proposal Due Date	03/25/2024 @ 4 PM EST
Proposal Evaluation	03/26/2024 – 04/12/2024
CWTA and Groundwork Notify Top Ranked Proposers and Requests Interviews/Oral Presentations	04/15/2024
Proposer Interviews/Oral Presentations	04/22/2024 -04/24/2024
Anticipated Award	05/03/2024

1.4 SUBMITTAL OF PROPOSALS

To be considered for award, each respondent must submit a complete response to the RFP, using the designated format and accepting all federal and state requirements. Proposals are to be submitted only to CWTA. No other distribution of proposals is to be made. Before submitting a proposal, applicants shall carefully examine the scope of work and fully inform themselves as to all existing conditions and limitations and shall indicate in the proposal all items requested.

Proposals may be hand-delivered, mailed, or sent via overnight courier. All Proposals must be delivered to the following address:

Carrie Thompson - Executive Director
Cadillac/Wexford Transit Authority
951 Casa Road, Cadillac, MI 49601

Proposals MUST be received by CWTA by the date and time set forth in the Solicitation Schedule. A postmark date on a mailed proposal will not be considered as being received. If a proposal is hand-delivered, it must be delivered to the CWTA front desk at the above address. Late proposals will not be considered. CWTA will email a confirmation upon receipt of the proposal.

Proposals received after the due date and time will not be opened unless it is determined by CWTA that the late receipt was due solely to mishandling by CWTA. CWTA assumes no responsibility for errant delivery of proposals, including those

relegated to a courier agent who fails to deliver in accordance with the time and receiving point specified.

All proposals submitted in response to this RFP will become the property of CWTA and will not be returned to the respondent. Proposals may be withdrawn in writing at any time prior to the due date and time. A proposal may also be withdrawn in person by a proposing firm, provided the withdrawal is made prior to the due date and time. The proposing firm must sign a receipt of withdrawal. No proposal may be withdrawn after the due date unless there is a material error in the proposal. Withdrawn proposals may be resubmitted, with or without modifications, up to the due date and time. CWTA shall require proof of agency from the person withdrawing the proposal.

An official authorized to bind the respondent to the proposal must complete and sign the Signature Page of the proposal in ink. It is to this person and to this email address that CWTA will provide notices and other matters regarding this RFP after submission. Submission of a proposal shall bind the respondent to all provisions of the proposal, including costs, for a period extending not less than 120 days following the Proposal Due Date.

This is a Sealed Proposal solicitation. Respondents shall submit in their Proposal Packet six proposal copies and one electronic (PDF) on a flash drive.

The Price Proposal Form and attached cost breakdown **must** be submitted with the proposal. **Failure** to submit the price will result in the **immediate disqualification** of the proposer as non-responsive.

CWTA will be the final authority in determining the responsiveness of submittals, including whether all sections described above have been included. All materials submitted become the property of CWTA. After selection, proposal scores shall be a matter of public record available for review upon request.

Each proposal should be prepared simply and economically, providing a straightforward, concise description of the respondent's ability to meet the requirements and objectives of this RFP. Emphasis should be on completeness and clarity of content.

CWTA is not liable for any cost incurred by any party prior to signing of a contract with that party and then only upon written authorization from CWTA to proceed with the project. Proposers will not be reimbursed for any costs associated with preparing responses to this RFP.

CWTA reserves the right to accept or reject any or all Proposals received as a result of this RFP for sound, documentable, business reasons, to negotiate with qualified Proposers, to award a contract without discussions/interviews or to cancel in part or in whole this RFP for sound, documentable, business reasons. CWTA also reserves the right to waive any minor defects, informalities, or irregularities in any proposal.

Proposer agrees to and acknowledges all RFP specifications, terms, and conditions and indicates ability to perform by submission of its Proposal.

1.5 COMMUNICATION

Pre-Proposal Assistance

CWTA will provide the same information to all interested parties to ensure fairness and impartiality in the procurement process. To that end, CWTA will not respond to telephone inquiries or personal visits. The subject line should include “Rail RFP questions.” Submit written questions (via email) no later than 03/01/2024. CWTA will respond within five days with acknowledgement of the request. All questions gathered will be answered by 03/08/2024 on CWTA’s website.

Carrie Thompson
Executive Director
carrie@wexexpress.us

Modifications

Modifications made to this RFP, in response to questions or concerns raised through RFP correspondence received from vendors, or due to internal discovery, will be posted on CWTA’s website on 03/08/2024 at: www.wexexpress.us. It is the Vendor’s responsibility to view the CWTA website on this date and address changes accordingly if posted.

Proposers may be disqualified if any unsolicited contact related to this solicitation is made with an employee or representative of CWTA or Groundwork other than the Procuring Agent or designated Groundwork contact.

1.6 LOCATION OF DOCUMENTS AND ADDENDA

This RFP, relevant documents and appendices not contained at the end of this RFP, and any updates to this RFP including addenda will be available on the CWTA website at www.wexexpress.us.

CWTA will not notify or distribute to prospective Proposers or interested parties any addenda, changes, or updates to the RFP. Failure of any prospective Proposer to receive any addenda will not relieve the Proposer from any obligation under its proposal as submitted or under the RFP, as clarified, interpreted, or modified.

All addenda issued shall become part of the RFP. Proposers shall acknowledge the receipt of each individual addendum and all prior addenda in their proposals. Failure to acknowledge in their proposals receipt of addenda may, at CWTA’s sole option disqualify the proposal.

Prospective Proposers and interested parties may obtain the RFP, addenda, and any updates on the CWTA website at www.wexexpress.us.

1.7 PROJECT FUNDING

Funding for this project comes from the U.S. Department of Transportation and Michigan's Department of Labor and Economic Opportunity. The successful Proposer will be required to comply with all applicable federal, state, and local laws and requirements.

The federal requirements are the Contract Clauses Professional and A&E More than \$250,000. The successful proposer will enter into a 3rd party subcontract for a firm, fixed price with CWTA. The subcontract must be approved by MDOT. The successful Proposer will be given a Notice to Proceed upon Contract award. All tasks must be undertaken in a manner consistent with the federal requirements, and it is the Contractor's responsibility to understand and document compliance.

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SCOPE OF SERVICES

SECTION 2 - SCOPE OF SERVICES

2.1 BACKGROUND

In 2010 and 2011 public forums across the state were held to collect community input for Michigan's State Rail Plan. Officials asked participants to map important Michigan locations and possible rail routes. Every map included a train line from Traverse City to lower Michigan and it was noted as the most consistent theme emerging from all the sessions. Similarly, during outreach for the Grand Vision (2010), a multi-year transportation and land use public visioning process conducted in the six-county region surrounding Traverse City, many residents were interested in restoring passenger rail to the region.

In 2015, the Groundwork Center for Resilient Communities (formerly Michigan Land Use Institute) began a project to explore the potential for passenger rail between the Ann Arbor area and northern lower Michigan. Groundwork held a kickoff event at the State Theatre in downtown Traverse City, which was widely attended.

In 2018, a [Ridership Feasibility and Cost Estimate](#) study was completed for the proposed rail service. The study was conducted using Federal Transit Administration Service Delivery and New Technology Grant funds from the Michigan Department of Transportation. The study's final report provided a pre-feasibility level understanding of the potential for operating passenger rail service between the populous southeast region and the northwestern tourism-oriented region of Michigan.

The study showed that there's a major market demand for rail service to northern Michigan given that the Traverse City/Petoskey region attracts millions of visitors each year, a rate that is growing around four percent annually, with nearly half of the trips being generated from metro Detroit.

Over the past few years, the State of Michigan has continued to invest in the rail line with repairs in the Traverse City area improving freight and passenger conditions.

The project aligns with statewide and local goals and plans. Potential passenger service was included in the 2011 Michigan State Rail Plan, the 2015 Traverse City region's Long Range Transportation Plan completed by the Traverse Transportation Coordinating Initiative, the City of Traverse City Master Plan, the U.S. 131 Corridor Economic Strategy developed by Networks Northwest, and the State's most recent [Michigan Mobility 2045](#) long-range plan.

2.2 SCOPE OF WORK

The Contractor shall undertake the following work tasks. All work must be undertaken in a manner that could support a future Service Development Plan for the corridor.

A. Project Description with Goals, Objectives, and Draft Purpose and Need Statement

Based on existing data and documentation, develop a project description with goals and objectives for the project. This shall describe the history, and context of the project, with documentation of the transportation and broader community problems the project is intended to address. The Contractor will also develop a Draft Purpose and Need Statement that could be used for a potential Service Development Plan.

B. Resource Reference of Existing and Comparison Case Studies

Where possible, reference relevant literature and comparison case studies and utilize data from the pre-existing studies of the corridor, including the 2018 Ridership Feasibility and Cost Estimate study.

C. Public and Stakeholder Engagement Planning— in partnership with Groundwork

Groundwork will plan and manage the public and stakeholder engagement portion of this study. The Contractor shall collaborate with the Groundwork team throughout the study and be willing to share data collected throughout the process as appropriate. The Groundwork team will share relevant feedback and updates throughout the public engagement process with the Contractor.

Groundwork intends to host meetings throughout the state in communities along the rail line. As requested, the Contractor must provide a representative to attend the meetings. The meetings will generally be held in the evening in person and/or virtually. The Contractor shall provide materials created for the study for use during the public engagement sessions, and be prepared to provide a brief presentation to the public about the study proposal. Emphasis will be placed on engaging a diverse population of people who are often left out of transportation planning projects.

D. Population Demographics

The Contractor will provide an updated report and analysis of current population, travel, and employment data in communities along the corridor. Data should include, but not be limited to:

- total population
- population density patterns
- population trends
- basic demographic information
- employment data

- land use patterns and trends
- origin/destination travel patterns
- other relevant transportation data

E. **Analysis of Rail Track Conditions, Proposed Improvement Schedule, and Associated Cost Estimates**

Develop an updated evaluation of existing track conditions, and updated estimates of upgrade costs. The Contractor will use these estimates to develop associated estimates of train speed and expected travel times. The contractor is expected to work closely with the Michigan Department of Transportation Rail Division staff and Great Lakes Central for the track condition data and cost estimates. This is not intended to be an engineering study, but a general assessment of conditions and a priority list of the areas needing upgrades that benefit both freight and future passenger rail development. Using this data, the Contractor will develop a proposed improvement priority list, with a sequence of projects and associated train speed/travel time estimates that benefit both freight and passenger development in northern Michigan.

F. **Proposed Route and Service Options, Operations Analysis, Station Analysis, and Existing Support Infrastructure**

1. The Contractor will evaluate and identify a preferred service route option and potential passenger stops along the corridor, and estimate potential travel times. The Contractor will consider the communities of Petoskey, Kalkaska, Traverse City, Kingsley, Cadillac, Clare, Mt. Pleasant, Alma, Durand, Owosso, Howell, Brighton, Ann Arbor, Detroit, and other communities as potential stop locations.
2. The Contractor will develop an analysis of boarding station area transportation access. They will also conduct an inventory of additional existing supporting transportation services for passengers, including public transit, taxis, bike trails, car share, bike share, etc., and nearby walkable commercial amenities.
3. The Contractor will develop a more in-depth station analysis for Cadillac, MI. An extensive analysis should be provided for the potential location of a station and the possibility of creating a multimodal transportation hub for Wexford County and the areas surrounding Cadillac, MI. The creation of this station analysis could then be used as a model of other communities along the route. Cadillac is of particular interest, in part, due to its position along the route and the possibility of branching the service northeast to connect additional population centers in Northern Michigan.

G. **Market Analysis and Ridership Demand Forecast**

The Contractor will develop a market analysis and estimate of ridership demand for passenger service at proposed stops throughout the corridor. The Contractor shall recommend an approach or mix of approaches for developing the estimates before undertaking the work.

H. Preliminary Economic and Financial Analysis

Develop a preliminary economic and financial analysis to better understand the financial feasibility of service in the overall corridor as well as for segments within the corridor. Analysis should include, but not be limited to:

1. Estimated intercity passenger rail service capital and operating costs based on ridership assessment.
2. Revenue estimates based on varying cost-per-rider options and based on ridership assessments.
3. General economic benefits to communities along the corridor

The Contractor will also develop preliminary capital, operating, and maintenance cost estimates; initial labor and fleet plans; and conceptual engineering for the preferred service route option.

I. Proposed Management and Governance Structure for Passenger Rail Service

The Contractor will provide a preferred option of a management and governance structure for the proposed passenger rail service.

J. Implementation Plan

The Contractor will provide a draft phased implantation plan including a timeline for improvements and launching future service.

K. Deliverables Timeline

Provide a timeline indicating the date by which study deliverables will be completed. The timeline should allow for the completion of public engagement activities undertaken by the Groundwork Center for Resilient Communities.

2.3 KEY DELIVERABLES

The following list of deliverables is to be created, consistent with the work tasks.

- A. Project Description with Goals and Objectives
- B. Resource Reference of Existing and Comparison Case Studies in the Corridor
- C. Public Engagement Results and analysis (to be completed by Groundwork)
- D. Detailed Project Description
- E. Project Demographics
- F. Analysis of Route Options
- G. Analysis of Rail Track Conditions
- H. Estimate of Service Demand
- I. Preliminary Economic and Financial Analysis

The format, timing, and version control of project deliverables and background materials shall be clearly identified with dates, page numbers, and version number.

Deliverables must be in recent versions of MS Word, MS Excel, or MS PowerPoint, and PDF format.

All graphic images must be supplied as JPEG's in a size and resolution sufficient to be used for printed and digital materials. Graphics produced by programs other than those listed above (e.g. Adobe Illustrator) shall also be delivered in editable formats native to that application unless otherwise agreed upon. All background files shall be submitted to the client upon request and shall be clearly documented.

2.4 PROJECT MANAGEMENT

- A. CWTA will act as the procuring agent and fiduciary for this project. Groundwork will assist CWTA with project management. The Contractor shall designate a single individual as a project manager with overall responsibility for directing the work and communicating progress to the client.
- B. The Contractor's project manager will maintain the task list and timeline for the project and regularly update CWTA and Groundwork whenever conditions require a deviation from the original task list and timeline.
- C. The Contractor's project manager will provide regular status reports as agreed to with the CWTA procuring agent. The project will be managed on the basis of the submission of key deliverables and key milestones. Invoicing and payment will be made based on the completion of key deliverables.
- D. Project guidance will also be provided by a Project Steering Committee, which includes CWTA, Groundwork, and the MDOT Office of Rail. Groundwork will convene this group and facilitate additional stakeholder input.

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INSTRUCTIONS
TO PROPOSERS

SECTION 3 - INSTRUCTIONS TO PROPOSERS

3.1 TECHNICAL PROPOSAL CONTENT

The technical content of the proposal shall include the following:

A. Letter of Transmittal

The Letter of Transmittal shall be addressed to Carrie Thompson, Procuring Agent, and must contain the following:

1. Identification of the offering firm(s), including name, address telephone number, and Federal Employer Identification Number.
2. Acknowledgment of RFP addenda, if any.
3. Name, title, address, telephone number, and email address of contact person during the period of proposal evaluation.
4. A statement to the effect of the proposal remaining valid for 120 days from the proposal due date.
5. Proposals must be signed by the person or persons legally authorized to bind the offering firm to the terms of the proposal and to a contract for the execution of the work and services

B. Company History

Provide a brief history of the firm. Describe the firm, its age, number of employees, and subsidiaries or partnerships it has with other firms.

C. Qualifications, Experience, and Capacity

1. Provide a statement of qualifications of the proposing firm providing details on the firm's experience with work relevant to this RFP.
2. Provide a narrative description of studies completed on three (3) projects similar to the project outline in this RFP. Include references with current contact information for each project.
3. Provide a list of projects (with dates) successfully completed in the past five (5) years.
4. Provide credentials (Resume) of each proposed project team member. Be sure to include education, experience, and unique

qualifications. Note that this is the team that will be assigned to this project. Prior written approval will be required for any change to the proposed project team.

5. Provide a staffing plan.

D. **Methodology and Approach:**

Provide a narrative of how Proposer intends to execute and complete this project.

E. **Project Schedule and Deliverables**

Provide a detailed schedule to complete the project and identify proposed dates – or range of dates – of key deliverables. See RFP regarding the key deliverables.

F. **Conditions, Exceptions, and/or Deviations to Product or Service**

Include any Conditions, Exceptions, and/or Deviations to the RFP or addenda. Proposals containing Conditions, Exceptions, and/or Deviations may be rejected as non-responsive unless approval from CWTA is requested in writing and CWTA issues approval through addenda.

G. **Subcontractors**

Proposals must provide the name, address, and EIN of any subcontractor and clearly identify the work they will perform. CWTA retains the right to refuse the subcontractors selected.

H. **Addenda Issued for this RFP**

Include a signed printout of all addenda (if any) issued for this RFP to demonstrate the Proposer's understanding and acceptance of the addenda.

3.2 PRICE PROPOSAL FORM

Submit the Price Proposal Form which is included in this RFP.

A. An itemized, detailed cost breakdown must be attached to the Price Proposal Form. The cost breakdown must include labor costs and time by staff, as well as overhead, travel, and other costs for completing the work outlined in this RFP. The Price Proposal Form and attached cost breakdown **must** be submitted with the proposal.

B. CWTA is exempt from Federal Excise Tax and State sales tax and taxes shall

not be included in the price proposal.

All travel costs billed will follow the State of Michigan's vehicle and travel rates. Current travel rates can be found on the Department of Technology, Management and Budget's website at:
www.michigan.gov/dtmb/services/travel

3.3 MODIFICATION OR WITHDRAWAL OF PROPOSALS

A modification of any part of a proposal already received will be accepted by CWTA only if the modification is received prior to the Proposal Due Date. A Proposer may withdraw the entire Proposal already received prior to the Proposal Due Date by submitting a written request for withdrawal executed by the Proposer's authorized representative.

3.4 WAIVER

The Proposer shall represent and warrant that they have sufficiently informed themselves in all matters affecting the performance of the work called for in the scope of this project; that they have checked the proposal for errors and omissions; that the prices stated in the proposal are correct and as intended by them and is a complete and correct statement of the prices for performing the work required.

3.5 PROPOSAL EVALUATION

A. Evaluation Committee

The Evaluation Committee is comprised of the following:

- Cadillac Wexford Transit Authority (two committee members)
- Groundwork Center for Resilient Communities (two committee members)
- MDOT Office of Rail (one committee member)

B. Evaluation Procedures

All proposals received will be scored by the evaluation committee according to the evaluation criteria. After the initial scoring, the committee may choose to interview the top proposers in a competitive range. The purpose of the interviews will be to clarify any information or questions the evaluation team may have concerning the proposal. Original scoring of the non-price criteria may be modified based on the results of the interview.

CWTA will only award to a responsive and responsible Proposer.

C. Evaluation Criteria

The CWTA reserves the right to reject any and all proposals in whole or part for sound documentable business reasons. The CWTA also reserves the right to award to other than the lowest price proposal. The selection criteria are listed in order of importance. Price is less important than the other evaluation criteria as a whole. A perfect score is 130 points. The criteria are as follows:

Methodology and Approach (50 points)

This refers to the technical soundness of the proposer's stated approach to the project, the comprehensiveness of the proposed approach, and the techniques to be used. The proposal should describe the approach and techniques used to achieve each item in the scope of work and the technical requirements listed throughout the RFP.

Qualifications, Related Experience, and References (30 points)

This refers to the technical soundness of the proposer's stated approach to the project, the comprehensiveness of the proposed approach, and the techniques to be used. The proposal should describe the approach and techniques used to achieve each item in the scope of work and the technical requirements listed throughout the RFP.

- Evidence of the firm's experience conducting similar studies, including an indication of whether the study work led to the construction and operation of a passenger rail system.
- Evidence of the firm's experience working in a railroad environment, and the firm's understanding of, and experience with, rail ridership and cost estimates.

Project Schedule and Deliverables (25 points)

The project schedule with key deliverables will be evaluated to determine the Proposer's understanding of the project scope; work schedule; logic, clarity, specificity, and overall quality.

Proposed Project Team and Organization: (15 points)

The organizational structure of the Proposer will be evaluated in terms of its effective use of personnel, relevant experience and time commitment of key personnel, especially the designated Project Manager and sub-consultants (if applicable), logic of project organization; adequacy of labor commitment and resources; capability to reallocate resources as needed to meet project schedules.

Project Price (10 points)

Prices will be evaluated based on the following formula: (lowest price/price of bid being evaluated) (assigned points) = number of points received.

3.6 NOTICE TO PROCEED

The selected vendor will contract with the agency and must have a third-party subcontract approved by MDOT. The awarded subcontract serves as the vendor's Notice to Proceed.

3.7 DURATION OF CONTRACT

CWTA is anticipating a start date of 05/15/2024 with a completion date no later than 07/31/2025.

3.8 TERMS OF PAYMENT

The prime contractor will complete the project AND submit an invoice to the Cadillac/Wexford Transit Authority, 951 Casa Road, Cadillac, MI 49601 **no later than 07/31/2025** in order to guarantee payment. No payment will be submitted to the State of Michigan for reimbursement until the CWTA verifies that the project meets the bid specifications. Upon acceptance the CWTA will submit a request to the State of Michigan which will take a minimum of forty-five (45) days to be processed. No payment will be made by the CWTA until the reimbursement check is received by the CWTA. All invoices shall be **itemized**.

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SPECIAL
PROVISIONS

SECTION 4 - SPECIAL PROVISIONS

4.1 MODIFICATION TO CONTRACT

A. Change Orders

Oral change orders are not permitted. No change in the contract shall be made unless CWTA gives prior written approval. A change order cannot constitute a cardinal change.

4.2 PROTEST PROCEDURES

A. General Procedures

1. Any interested party may file a protest, claim, or dispute with CWTA pursuant to these protest procedures.
2. Protests, claims, or disputes, where applicable, shall be in writing and filed with CWTA directed to the Executive Director, Cadillac Wexford Transit Authority, 951 Casa Rd, Cadillac, MI, 49601
3. Failure to comply with any of the requirements may result in the rejection of the protest.

B. Protest Due Dates

Protests about procurement decisions or processes must be received no later than ten (10) business days before the solicitation due date. Protests after the due date, but before award must be received no later than five (5) business days after the due date. Post award processes must be received no later than by five (5) business days after the award decision. The protest shall clearly identify:

1. The name, address, and telephone number of the protester.
2. The grounds for the protest, any and all documentation to support the protest and the relief sought.
3. Steps that have been taken to date in an attempt to correct the alleged problem or concern.

C. CWTA Response

1. Any individual or entity may file a protest with CWTA alleging a violation of applicable federal, state law and/or CWTA policy or procedure relative to seeking, evaluating, and/or intent to award a procurement Contract. In addition, any individual or entity may file a protest with CWTA alleging

that CWTA has failed to follow its Procurement Protest Procedures.

2. A protest, dispute, or claim with respect to the award of a Contract through solicitation of bids shall be submitted in writing to the CWTA Executive Director for a decision. All claims shall clearly identify:
3. The CWTA Executive Director or her/his designee will review the written protest and provide a written decision to the protestor within ten (10) business days of receiving the protest.

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TERMS AND
CONDITIONS

SECTION 5 - TERMS AND CONDITIONS

5.1 TERMINATION

A. Waiver of Remedies for any Breach

In the event that CWTA elects to waive its remedies for any breach by the Contractor of any covenant, term, or condition of this Contract, such waiver by CWTA shall not limit CWTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

5.2 DISPUTE RESOLUTION

- A. Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the Executive Director of CWTA. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy of the decision, the Contractor mails or otherwise furnishes a written appeal to the Executive Director of CWTA in accordance with the Notice delivery provisions of this Agreement. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.
- B. Unless otherwise directed by CWTA, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- C. If the Contractor disputes the decision of the CWTA Executive Director, the provisions of this Section of the solicitation shall apply, however, the decision of the Executive Director shall remain binding except as otherwise determined pursuant to this Section.
- D. Unless otherwise agreed upon in writing by the parties, disputes involving CWTA and Contractor and which arise from any aspect of this Agreement including, but not limited to, interpretation of the Agreement, performance, default, or enforcement shall be decided by litigation in a court of competent jurisdiction located in Wexford County, Michigan. The court shall take into consideration the findings and decision of the Executive Director of CWTA with respect to any decision made by the court relating to any such dispute.

5.3 LITIGATION EXPENSES

In the event of any dispute that results in litigation or arbitration arising from or related to the services provided under this Contract, the prevailing party will be entitled to recovery of all reasonable costs incurred, including that party's time, court costs,

attorney fees, or appraisers (whether or not called to testify), and other related expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing party and shall not require initiation of a separate legal proceeding.

5.4 ASSIGNMENT

Any Contract issued pursuant to this solicitation and the monies, which may become due, are not assignable except with the prior written approval of CWTA. Any required consent will not be unreasonably withheld or delayed.

5.5 INDEMNIFICATION

A. The Contractor shall, to the extent permitted by law:

- 1) Protect, indemnify and save CWTA and its officers, employees, and agents, including consultants, harmless from and against any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses, and suits or actions or proceedings, including reasonable expenses, costs and attorney's fees incurred by CWTA and its officers, employees, and agents, including consultants, in the defense, settlement or satisfaction thereof, for any injury, death, loss or damage to persons or property of any kind whatsoever, arising out of, or resulting from, the negligent acts, errors or omissions of the Contractor, including negligent acts, errors or omissions of its officers, employees, servants, agents, subcontractors, and suppliers;
- 2) Upon receipt of notice and if given authority, shall settle at its own expense or undertake at its own expense the defense of any such suit, action, or proceeding, including appeals, against CWTA and its officers, employees, and agents, including consultants, relating to such injury, death, loss or damage. Each party shall promptly notify the other in writing of the notice or assertion of any claim, demand, lien, encumbrance, judgment, award, suit, action or other proceeding hereunder. The Contractor shall have sole charge and direction of the defense of such suit, action, or proceeding. CWTA shall at the request of the Contractor furnish to the Contractor all reasonable assistance that may be necessary for the purpose of defending such suit, action, or proceeding, and shall be repaid all reasonable costs incurred in doing so. CWTA shall have the right to be represented therein by advisory counsel of its own selection at its own expense.

B. Nothing in this Contract shall be construed to waive CWTA's immunities or liability limits provided under applicable state or federal law.

5.6 PROHIBITED INTEREST

No member, officer, or employee of CWTA or of a local public body during their tenure or one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

5.7 CONFLICT OF INTEREST

- A. The Contractor, by entering into the Contract with CWTA, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed or provided under the Contract and that it shall not employ any person or agent having such interests. In the event that the Contractor or its agents, employees, or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to CWTA and take action immediately to eliminate the conflict or to withdraw from this Contract, as CWTA may require.
- B. The Contractor also certifies that to the best of its knowledge, no CWTA Board Member or employee, or employee or officer of any agency interested in the Contract has a pecuniary interest in the business of the Contractor or with the Contract and that no person associated with the Contractor has any interest that would conflict in any manner or degree with the performance of the Contract.
- C. The Contractor, by entering into a Contract with CWTA further covenants: 1) that no person or selling agency except bona fide employees or designated agents or representatives of the Contractor has been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and 2) that no gratuities were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member, or employee of CWTA or other governmental agency with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this service.

5.8 LIMITATION OF LIABILITY

CWTA's liability is, in the aggregate, limited to the total amount payable under this Contract.

5.9 LAWS GOVERNING CONTRACT

This Proposal and the resulting Contract shall be governed and construed in

accordance with the laws of the State of Michigan. The parties stipulate that this Contract was entered into in Wexford County, in the State of Michigan. The parties further stipulate that Wexford County is the only appropriate forum for any litigation resulting from a breach hereof or any questions arising here from. All parties to this proposal and any resulting contract agreed that the venue shall be within Wexford County, Michigan. Each party will perform its obligations hereunder in accordance with applicable laws, rules, and regulations now or hereafter in effect.

5.10 COMPLETE AGREEMENT

The Contract resulting from this Solicitation, including exhibits and other documents incorporated in the Contract or made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the Contract between the Contractor and CWTA. The Contract supersedes all prior representations, understandings, and communications. The validity in whole or in part of any term or condition of the Contract shall not affect the validity of other terms or conditions.

CWTA's failure to insist in any one or more instances upon the Contractor's performance of any term or condition of the Contract shall not be construed as a waiver or relinquishment of CWTA's right to such performance, or to future performance, of such term or condition of the Contractor, and Contractor's obligation for performance of that term or condition shall continue in full force and effect.

5.11 SEVERABILITY

If any provisions or portion of any provision, of this Contract are held invalid, illegal or unenforceable, they shall be severed from the Contract and the remaining provisions shall be valid and enforceable.

5.12 CONTRACTOR'S LIABILITY INSURANCE

- A. The Contractor shall purchase and maintain, throughout the term of the Contract, insurance from an insurance company authorized to do business in the State of Michigan that will protect Contractors, subcontractors, and the owner from all liability claims under the Contract. The insurance must state CWTA as additionally covered. The amount of insurance shall not be less than the following:
 1. Workers' Compensation, disability benefits and other similar employee benefit acts in the amount required under State of Michigan law. A nonresident Contractor shall have insurance for benefits payable under Michigan's Workers' Compensation law for any employee resident of and hired in Michigan. The Contractor shall maintain

coverage for employees of other states as mandated.

2. Comprehensive General Liability: \$2,000,000

Bodily injury and property damage combined single limit including personal injury and completed operations.

3. Automobile Insurance for Vehicles:

\$2,000,000 Liability, including standard no-fault

- B. The Contractor may not start work until evidence of all required insurance has been submitted and approved by CWTA. The Contractor must cease work if any of the required insurance is canceled or expires. One copy of the certificate of insurance shall be submitted to and approved by CWTA prior to the execution of the Contract.
- C. All policies providing contractor's insurance shall be endorsed to provide thirty (30) days written notice of cancellation or non-renewal to CWTA.
- D. The limits of liability may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required.

All policies of insurance presented, as proof of compliance shall be on forms and with insurance companies approved by CWTA. All such insurance policies shall be provided by insurance companies having Best's ratings of A or greater and VII or greater (A/VII) as shown in the most current issue of Best's Key Rating Guide. Policies of insurance insured by insurance companies not rated by Best's or having Best's ratings lower than A/VII will not be accepted as complying with the insurance requirements of the contract unless such insurance companies were approved in writing prior to award of the contract.

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REQUIRED FORMS
AND
CERTIFICATIONS

PROPOSAL SUBMISSION CHECKLIST

Within the Technical Proposal (1 original and 5 copies)

- Letter of Transmittal
- Company History
- Qualifications, Experience and Capacity
- Staffing Plan
- References
- Methodology and Approach
- Project Schedule and Deliverables
- Exceptions and/or Deviations
- Subcontractor Information
- Signed Federal Contract Clauses Professional and A&E More than \$250,000
- Signed copies of any and all Addenda issued for this RFP

Within Section 6 (1 original and 1 copy)

Signed Forms and Certifications (forms are provided in Section 6 of this RFP)

- Agreement of Goods and Services
- Proposal Addenda Acknowledgement Form
- Certificate of Non-Collusion
- Signature Page
- Price Proposal Form with an attached, detailed, itemized, cost breakdown

AGREEMENT OF GOODS and SERVICES

TO: CWTA
951 Casa Road,
Cadillac, MI 49601

The undersigned hereby agrees to furnish the goods and services as listed below in accordance with the specifications which have been carefully examined and are attached.

Signature: _____

Typed Name: _____

Company: _____

Title: _____ Date: _____

PROPOSAL ADDENDA ACKNOWLEDGEMENT FORM

The undersigned acknowledges receipt of the following addenda to the document:

Addendum No. _____, Dated _____

Addendum No. _____, Dated _____

Addendum No. _____, Dated _____

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the offer.

The undersigned understands that any conditions stated above, clarifications made to above or information submitted on or with this form other than that requested, will render Proposal unresponsive.

Signature: _____

Typed Name: _____

Company: _____

Title: _____ Date: _____

CERTIFICATE OF NON-COLLUSION

I hereby swear (or affirm) under penalty for perjury:

1. That I am the Proposer or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Proposer is a corporation);
2. That the attached proposal has been arrived at by the Proposer independently and has been submitted without collusion and without any agreement, understanding, or planned course of action with any other vendor of materials, supplies, equipment, or service described in the Request For Proposal, designed to limit independent proposals or competition;
3. That the contents of the proposal has not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the Proposer, and will not be communicated to any such person prior to the opening of the proposals; and,
4. That I have fully informed myself regarding the accuracy of the statement made in this affidavit.

Signed _____

Firm Name _____

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public

My commission expires _____, _____

Proposer's E.I. Number _____

(Number used on employer's Quarterly Federal Tax Return)

PRICE PROPOSAL FORM

Company

Name of Authorized Representative

Title

Address

City

State

Zip Code

Email Address

Telephone Number

Fax Number

Signature of Authorized Representative

Date

PRICE

Lump Sum Price* for completion of project as specified in RFP

\$ _____

*Lump Sum Price includes all services, labor, expenses, travel, overhead, material production and other costs to complete the project. Proposer **must** attach a detailed, itemized, cost breakdown. Price Proposal Form and attached cost breakdown **must** be submitted with the proposal in a separate, sealed envelope. **Failure** to submit the price proposal in a separate, sealed envelope will result in the **immediate disqualification** of the proposer as non-responsive*

Signature Page

Company Name:	
Address:	Telephone Number: Fax Number:
Email Address:	Federal Tax ID Number:
<p>Check ONE of the following:</p> <p align="center"> <input type="checkbox"/> Partnership <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Profit Corporation </p> <p>Check ONE of the following. If you have a DBE status, submit current certificate with proposal:</p> <p align="center"> <input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE </p> <p>Other, Specify:</p>	
<p><i>I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder.</i></p> <p>Signature of Person Authorized to Sign:</p>	Title of Authorized Signatory:
Name of Authorized Signatory (print):	Date:
<p align="center"><i>The above individual is authorized to sign on behalf of the company submitting this proposal. Proposals must be signed by an official authorized to bind the provider to its provisions for a period of at least 90 days.</i></p>	
<p>EXCLUSIONS Please list any exclusions for this RFP: <i>(Check here if a separate page is necessary, please indicate these are exceptions to any portion of this solicitation)</i></p>	

ACCESS TO RECORDS AND REPORTS

1. **Record Retention.** The Contractor will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other Third-party Contracts of any type, and supporting materials related to those records.
2. **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 CFR § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337.
4. **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

- a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.
- c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
- d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.
- e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

- a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:
 1. Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
 2. An award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.
- b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:
 1. A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
 2. A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

- c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:
 - 1. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - 2. A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
 - 3. A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:
 - 1. A subcontract exceeding \$100,000 at any tier under a Federal contract;
 - 2. A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
 - 3. A contract or subcontract exceeding \$100,000 at any tier under a federal loan exceeding \$150,000; or,
 - 4. A contract or subcontract exceeding \$100,000 at any tier under a federal cooperative agreement. Shall file a certification, and a disclosure form, if required, to the next tier above.
- e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.
- f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.
- g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989, effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.
- h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart (b) or (c).

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
 - a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity", September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance", 49 CFR part 25 prohibit discrimination on the basis of sex.
3. **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975", as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance", 45 CFR part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act", 29 CFR part 1625, also prohibit employment discrimination against individuals aged 40 and over on the basis of age.
4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third-party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements

of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", 41 CFR chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment", September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act", 29 CFR part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance", 45 CFR part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 12511387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR part 613 and 621).

DEBARMENT AND SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment", 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)", 2 CFR part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;

- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 CFR part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible. 49 CFR § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 CFR § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 CFR § 26.53(f) (1).

ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

NOTICE TO THIRD-PARTY PARTICIPANTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third-party Agreement and parties thereto at any tier.

FLY AMERICA

- a) Definitions. As used in this clause -
 - 1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:
Statement of Unavailability of U.S.-Flag Air Carriers
 International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:
- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

1. The contractor certifies that it:
 - a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
 - b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third-party Agreement with the Third-party Participant without FTA's written approval.

2. Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby

incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-party Agreements and must require each Third-party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a "covered transaction" according to 2 CFR §§ 180.220 and 1200.220.

1. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
2. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
3. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 1. Procure or obtain;
 2. Extend or renew a contract to procure or obtain; or
 3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services procured or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b) In implementing the prohibition under Public Law 115232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
 - c) See Public Law 115-232, section 889 for additional information.
 - d) See also § 200.471.

PROMPT PAYMENT

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States -

- a) To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 1. The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 2. The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 3. The amount of federal assistance FTA has provided for a State Program or Project.
- b) Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 CFR §§ 200.317- 200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).

SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

TERMINATION

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor

was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

VIOLATION AND BREACH OF CONTRACT

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance during Dispute

Unless otherwise directed by the agencies authorized representative, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents, or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this contract provides otherwise, all claims, counterclaims, disputes, and other matters in question between the agencies authorized representative and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies

Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the Agency or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 CFR part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

PATENT RIGHTS AND RIGHTS IN DATA

Intellectual Property Rights

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes", any subject data or copyright described below. For "Federal Government Purposes", means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its federal license to any other party.
 - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, hereby certify (Name and Title of official)

On behalf of (Name of Bidder/Company Name) that:

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

NAME OF BIDDER/COMPANY NAME	
TYPE OR PRINT NAME	
SIGNATURE OF AUTHORIZED REPRESENTATIVE	DATE

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
(NONPROCUREMENT)**

Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract, or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below); or (c) adding a clause or condition to the contract or subcontract.

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

1. It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment", 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)", 2 CFR part 180,
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
 1. Debarred,
 2. Suspended,
 3. Proposed for debarment,
 4. Declared ineligible,
 5. Voluntarily excluded, or
 6. Disqualified,
 - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
 1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
 2. Violation of any Federal or State antitrust statute, or,
 3. Commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making any false statement, or receiving stolen property,
 - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
 - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
3. If, at a later time, it receives any information that contradicts the statements of subsections 2.a - 2.d above, it will promptly provide that information to FTA,
 - a. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if:
 1. Equals or exceeds \$25,000,
 2. Is for audit services, or,
 3. Requires the consent of a federal official, and
 - b. It will require that each covered lower tier contractor and subcontractor:
 1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - a. Debarred from participation in its federally funded Project,
 - b. Suspended from participation in its federally funded Project,
 - c. Proposed for debarment from participation in its federally funded Project,
 - d. Declared ineligible to participate in its federally funded Project,
 - e. Voluntarily excluded from participation in its federally funded Project, or
 - f. Disqualified from participation in its federally funded Project, and
4. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

CERTIFICATION

CONTRACTOR	
SIGNATURE OF AUTHORIZED OFFICIAL	DATE
NAME AND TITLE OF CONTRACTOR'S AUTHORIZED OFFICIAL	